IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

I.T.R. No.8 of 1996
Date of decision: 31.10.2006

M/s G.N.A. Enterprises Pvt. Ltd., Goraya.

---Applicant

Vs.

The Commissioner of Income Tax, Jalandhar.

-----Respondent

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE RAJESH BINDAL

Present: Dr. N.L. Sharda, Advocate
for the revenue.

ORDER:

Following questions of law have been referred for opinion of this Court by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar, arising in I.T.A. Nos. 220/85 & 102/96 in respect of assessment years 1981-82 and 1982-83 at the instance of the assessee:-

For the assessment year 1981-82:-

"1. Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that machinery in the form of diesel engine, transformer, electric switchgears and air circuit breaker valuing Rs.3,04,748/- was not machine tool automatic, semi-automatic entitled to depreciation @ 15% within the meanings of item No.III(B)(8) of Appendix I to Rule 5 of the Income-tax Rules but was General Machinery entitled to 10%?"

2. "Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in sustaining the view that extra shift allowance on transformer, electric switchgears and air circuit breaker valuing Rs.1,87,374/- was not allowable in view of sub part 3 (Special rates) of Appendix I to Rule 5 as Electric

Machinery as mentioned in Sr. No.1 and not special machinery as per Part III(B) C(4) of Appendix I to Rule 5 of the Income-tax Rules?"

For the assessment year 1982-83:-

"Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that machinery in the form of Diesel Engine, Transformer and Generateor etc. valuing Rs.10,42,634/- was not machine tools Automatic, Semi Automatic, entitled to depreciation @ 15% within the meaning of item IIIB(8) of Appendix 'I' to Rule 5 of the Income-tax Rules but was electric machinery entitled to depreciation @ 10%?

When the reference was called out for hearing, none appeared for the assessee.

In view of above, we do not consider it appropriate to take a decision on merits. The reference is returned unanswered.

(ADARSH KUMAR GOEL)
JUDGE

October 31, 2006
ashwani

(RAJESH BINDAL)
JUDGE